

United States District Court
For the Northern District of California

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6 IN THE UNITED STATES DISTRICT COURT

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10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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NORTHERN CALIFORNIA GLAZIERS,

Plaintiff,

No. C 08-05018 WHA

v.

ARCHITECTURAL GLASS
CONSTRUCTION, INC.

**ORDER RE ATTORNEY'S
FEES**

Defendant.

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In this ERISA action regarding delinquent contributions, plaintiff Northern California Glaziers moved for summary judgment against defendant Architectural Glass Construction, Inc. Defendant filed a statement of nonopposition and explained at the hearing on the motion that it did not contest its liability. A November 5 order granted summary judgment against defendant and in favor of plaintiff. Because defendant has been found liable for delinquent contributions, an award of reasonable attorney's fees is mandatory pursuant to 29 U.S.C. 1132(g)(2).

In its motion for summary judgment, plaintiff requested attorney's fees in the amount of \$17755, but it failed to specify why this amount was reasonable. Additionally, plaintiff made basic arithmetic errors in its motion calculating the attorney's fees to which it claimed it was entitled. Based upon the hours plaintiff's counsel claimed to have worked and their requested rates, the total amount should have been \$16459.50, not \$17755.

Plaintiff has now filed supplemental briefing and a sworn declaration from Attorney Kristen McCulloch in support of its request for attorney's fees. The latest submission seeks

1 \$18134 in attorney's fees based on counsel's claim to have billed additional hours over what
2 was claimed in the motion for summary judgment.

This order finds that plaintiff still has not provided adequate detail to justify whether its requested attorney's fees are reasonable. Plaintiff's submission gives only an aggregate number of hours billed by each time keeper with no description or explanation of the work done nor any basis for the number of hours billed. Nor does the submission adequately describe the credentials of the timekeepers so as to support the rates requested. For these reasons, this order finds that further supplementation is necessary. Plaintiff's counsel is not permitted to include the time to prepare this supplemental briefing in its request for attorney's fees.

10 No later than **NOON ON DECEMBER 10, 2009**, plaintiff's attorneys must file and serve a
11 detailed declaration, organized by discrete projects, breaking down all attorney and paralegal
12 time sought to be recovered. For each project, there must be a detailed description of the work,
13 giving the date, hours expended, attorney name, and task for each work entry, in chronological
14 order. A "project" means a deposition, a motion, a witness interview, and so forth. It does not
15 mean generalized statements like "trial preparation" or "attended trial." It includes discrete
16 items like "prepare supplemental trial brief on issue X." The following is an example of time
17 collected by a project.

PROJECT: ABC DEPOSITION (2 DAYS IN FRESNO)

	Date	Time-keeper	Description	Hours x	Rate =	Fee
19						
20						
21	01-08-01	XYZ	Assemble and photocopy exhibits for use in deposition.	2.0	\$100	\$200
22						
23	01-09-01	RST	Review evidence and prepare to examine ABC at deposition.	4.5	\$200	\$900
24						
25	01-10-01	XYZ	Research issue of work-product privilege asserted by deponent.	1.5	\$100	\$150
26						
27	01-11-01	RST	Prepare for and take deposition.	8.5	\$200	\$1700
	01-12-01	RST	Prepare for and take deposition.	<u>7.0</u>	\$200	<u>\$1400</u>
			Project Total:	<u>23.5</u>		<u>\$4350</u>

1 All entries for a given project must be presented chronologically one after the other, *i.e.*,
2 uninterrupted by other projects, so that the timeline for each project can be readily grasped.
3 Entries can be rounded to the nearest quarter-hour and should be net of write-down for
4 inefficiency or other cause. Please show the sub-totals for hours and fees per project, as in the
5 example above, and show grand totals for all projects combined at the end. Include only entries
6 for which compensation is sought, *i.e.*, after application of “billing judgment.” For each
7 project, the declaration must further state, in percentage terms, the proportion of the project
8 directed at issues for which fees are awardable and must justify the percentage. This percentage
9 should then be applied against the project total to isolate the recoverable portion (a step not
10 shown in the example above).

11 A separate summary chart of total time and fees sought per individual timekeeper (not
12 broken down by project) should also be shown at the end of the declaration. This
13 cross-tabulation will help illuminate all timekeepers’ respective workloads and roles in the
14 overall case.

15 The declaration must also set forth (a) the qualifications, experience and role of each
16 attorney or paralegal for whom fees are sought; (b) the normal rate ordinarily charged for each
17 in the relevant time period; (c) how the rates were comparable to prevailing rates in the
18 community for like-skilled professionals; and (d) proof that “billing judgment” was exercised.
19 On the latter point, as before, the declaration should describe adjustments made to eliminate
20 duplication, excess, associate-turnover expense, and so forth. These adjustments need not be
21 itemized but totals for the amount deleted per timekeeper should be stated. The declaration
22 must identify the records used to compile the entries and, specifically, state whether and the
23 extent to which the records were contemporaneous versus retroactively prepared. It must state
24 the extent to which any entries include estimates (and what any estimates were based on).
25 Estimates and/or use of retroactively-made records may or may not be allowed, depending on
26 the facts and circumstances.

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1 Ordinarily, no more than one attorney and one paralegal need be present at a deposition;
2 more will normally be deemed excessive. Ordinarily, no more than one attorney need attend a
3 law-and-motion hearing; more will normally be deemed excessive.

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5 **IT IS SO ORDERED.**

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7 Dated: December 1, 2009.

Wm. Alsup
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9 WILLIAM ALSUP
10 UNITED STATES DISTRICT JUDGE